

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
BILLINGS DIVISION

GREGORY LYNN WALLACE,

Petitioner,

vs.

JASON KOWALSKI; TIM FOX,
ATTORNEY GENERAL OF THE
STATE OF MONTANA,

Respondents.

CV 20-130-BLG-SPW

ORDER ADOPTING
MAGISTRATE'S FINDINGS
AND RECOMMENDATIONS

The United States Magistrate Judge filed Findings and Recommendations on December 29, 2020. (Doc. 7). The Magistrate recommended that Wallace's Petition for writ of habeas corpus and certificate of appealability be denied. (Doc. 7 at 6).

Pursuant to 28 U.S.C. § 636(b)(1), parties are required to file written objections within 14 days of the filing of the Magistrate's Findings and Recommendation. No objections were filed¹. When neither party objects, this Court reviews the Magistrate's Findings and Recommendation for clear error.

¹ Wallace did file a supplementary document on January 4, 2021. (Doc. 8). However, nothing in the supplement appears to address or object to the findings and recommendations of Judge Cavan.


McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc., 656 F.2d 1309, 1313 (9th Cir. 1981). Clear error exists if the Court is left with a “definite and firm conviction that a mistake has been committed.” *United States v. Syrax*, 235 F.3d 422, 427 (9th Cir. 2000). After reviewing the Findings and Recommendation, this Court does not find that the Magistrate committed clear error. This Court cannot provide the relief Wallace seeks as federal district courts do not serve as appellate tribunals of state courts. *MacKay v. Pfeil*, 827 F.2d 540, 543 (9th Cir. 1987). Further, Wallace’s claims for relief under state law do not warrant federal habeas relief. 28 U.S.C. § 2254(a).

IT IS ORDERED that the proposed Findings and Recommendations entered by the United States Magistrate Judge (Doc. 7) are ADOPTED IN FULL.

IT IS FURTHER ORDERED that Wallace’s Petition (Doc. 1) is DENIED. Wallace’s certificate of appealability is likewise DENIED.

The Clerk of Court is directed to enter judgment in favor of Respondents and against Petitioner.

DATED this 19th day of January, 2021.


SUSAN P. WATTERS
United States District Judge